lots had been sold, the defendant bought the tract and continued to sell lots, but discontinued operating the plant, which resulted in an overflow of sewage dangerous to public health. In an action by the village to determine who was to bear the expense of operation, *held*, that the defendant must bear it. *Village of Larchmont* v. *Larchmont Park*, 173 N. Y. Supp. 32.

Equity, in order to carry out the intention of the parties, will enforce agreements restricting the use of land for the benefit of other land on the theory that an equitable easement or servitude has been created. *Smith* v. *Young*, 160 Ill. 163, 43 N. E. 486; *Peck* v. *Conway*, 119 Mass. 546, 549; *Tulk* v. *Moxhay*, 11 Beav. 571. Accordingly, if the intent appears from a deed referring to a plat, the intention will be enforced. *White* v. *Tide Water Oil Co.*, 50 N. J. Eq. 1; *Chickhaus* v. *Sanford*, 83 N. J. Eq. 454, 91 Atl. 878; *Smith* v. *Young*, *supra*. The same is true when the deed does not refer to the plan. *Briggs* v. *Sea Gate Ass'n*, 211 N. Y. 482, 105 N. E. 664; *Tallmadge* v. *The East River Bank*, 26 N. Y. 105. In the principal case, the plan of the sewage system was to confer a benefit on the land sold by allowing sewage to flow to the pumping plant. An equitable servitude having thus arisen, the defendant alone must bear the expense of abating the nuisance caused by the overflow, not only as to the lots sold by him, but also as to those sold by his predecessor since he bought the servient estate with notice. *Whitney* v. *Union Railway Co.*, 11 Gray (Mass.) 359; *Tallmadge* v. *The East River Bank*, *supra*. And it follows that if the village had not brought the action, the purchasers of the lots could have maintained a suit for specific performance of the equitable servitude. *Tulk* v. *Moxhay*, *supra*; *Tallmadge* v. *The East River Bank*, *supra*.

EVIDENCE — JUDICIAL ADMISSIONS — CONCLUSIVENESS. — The complainant brought a bill in equity to enjoin the infringement of his label, alleging similarity and confusion. The defendant answered and counterclaimed to enjoin the complainant from infringing the former's label, admitting the complainant's averment of similarity and confusion, but alleging and subsequently proving his own label to be the elder. The lower court reasonably found that on the evidence offered there was no confusion. *Held*, that the averments in the bill are conclusive against the complainant on the counterclaim. *Wrigley* v. *Larson*, 253 Fed. 914 (Circ. Ct. App.).

Admissions in the pleadings amount to a waiver of proof of the facts pleaded. They are conclusive against the pleader on the issue in which they occur. *Paige* v. *Willet*, 38 N. Y. 28; *S. W. Broom Co.* v. *Bank*, 52 Okla. 422, 153 Pac. 204. But on another issue in the same cause the pleadings may not be used as admissions. *Nye* v. *Spencer*, 41 Me. 272; *Ayres* v. *Covill*, 18 Barb. (N. Y.) 260. Neither could such judicial admissions be used in a subsequent suit as admissions by a party. Allegations were not at common law supposed to be necessarily truthful, but merely served the purpose of raising an issue. *Starkweather* v. *Kittle*, 17 Wend. (N. Y.) 20. Even with the development of chancery pleading, bills were not admissible in a subsequent suit. *Kilbee* v. *Sneyd*, 2 Molloy ((Ir. Chanc.) 186; *Durden* v. *Cleveland*, 4 Ala. 225. To-day, however, pleadings in law and equity are not considered fictitious, as they must be signed or sworn to, and are competent evidence in subsequent suits. *Pope* v. *Allis*, 115 U. S. 363; *Elliott* v. *Hayden*, 104 Mass. 180. Such averments are then certainly competent evidence on another issue in the same cause. *State* v. *Firemen's Ins. Co.*, 152 Mo. 1, 52 S. W. 595; *Derby* v. *Gallop*, 5 Minn. 119. In equity, moreover, the defendant does not separate his pleas into negative and affirmative. The answer is treated as homogeneous. See LANGDELL, SUMMARY OF EQUITY PLEADING, § 68; 3 WIGMORE, EVIDENCE, § 2122. There is, then, practically only one line of pleading, and the averments of the complainant in the present case are therefore conclusive against him.